



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/824,633	03/27/97	DRILL	C VLSI-2759

WAGNER MURABITO & HAO  
TWO NORTH MARKET STREET  
THIRD FLOOR  
SAN JOSE CA 95113

QM11/0212

EXAMINER

RACHUBA, M

ART UNIT

PAPER NUMBER

3724

DATE MAILED:

02/12/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

<b>Office Action Summary</b>	Application No. <b>08/824,633</b>	Applicant(s) <b>Drill et al</b>
	Examiner <b>M. Rachuba</b>	Group Art Unit <b>3724</b>

Responsive to communication(s) filed on Dec 3, 1998.

This action is **FINAL**.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

#### Disposition of Claims

Claim(s) 1-19 is/are pending in the application.

Of the above, claim(s) 18 and 19 is/are withdrawn from consideration.

Claim(s) \_\_\_\_\_ is/are allowed.

Claim(s) 1-17 is/are rejected.

Claim(s) \_\_\_\_\_ is/are objected to.

Claims \_\_\_\_\_ are subject to restriction or election requirement.

#### Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All  Some\*  None of the CERTIFIED copies of the priority documents have been

received.

received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_.

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

#### Attachment(s)

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 3724

## **DETAILED ACTION**

### ***Election/Restriction***

1. Claims 18 and 19 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b) as being drawn to a non-elected method. Election was made **without** traverse in Paper No. 3.

### ***Claim Rejections - 35 U.S.C. § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 5 and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is not clear how the underlayers can form the polishing surface of the pad.  
How does something underneath the upper layer act as the upper layer?

### ***Claim Rejections - 35 U.S.C. § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 1 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Glover.

Art Unit: 3724

6. Claims 1-4, 5 (as best understood), 6, 8, 10-12, 13 (as best understood), 14 and 16 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Cote et al.

7. Please note that a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963).

***Claim Rejections - 35 U.S.C. § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 9 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cote et al. Cote et al does not disclose a “linear” pad. It would have been an obvious matter of design choice to make the different portions of the device of whatever form or shape was desired or expedient. A change in form or shape is generally recognized as being within the level of ordinary skill in the art, absent any showing of unexpected results. *In re Dailey et al.*, 149 USPQ 47. Further, “linear” pads, interpreted as pads which are rectangular in shape and which reciprocate rather than rotate, are well known in the art.

Art Unit: 3724

10. Claims 7 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cote et al in view of Neff. Cote et al disclose everything claimed except the overlying layer having different textures. Neff teaches an abrasive sheet having different textures to produce different effect on the workpiece, the sheet overlaying a supporting layer. It would have been obvious to one of ordinary skill to have provided Cote et al with the differently textured sheet of Neff, to allow the workpiece to be polished using different effects, to optimize both material removal rates and surface finishes.

*Conclusion*

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

12. **Note the change in Group number to 3720 and art unit to 3724.**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Rachuba whose telephone number is (703) 308-1361. The examiner can normally be reached on Monday through Thursday, and alternative Fridays, from 8:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada, can be reached on (703) 308-2187. The fax phone number for this Group is (703) 305-3579.

In order to reduce pendency and avoid potential delays, Group 3720 is encouraging FAXing of responses to Office actions directly into the Group at (703) 305-3579. This practice

Art Unit: 3724

may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify Examiner Rachuba of Art Unit 3724 at the top of your cover sheet.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [rinaldi.rada@uspto.gov].

All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1148.

M. RACHUBA  
PRIMARY PATENT EXAMINER  
ART UNIT 3724

2/9/99